

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 UNITED STATES OF AMERICA)
5)
6 vs.) CASE NO. 3:09-00186
7 RENSO NORIEGA)

8
9 TRANSCRIPT OF PROCEEDINGS
10 PLEA HEARING
11

12 BEFORE: THE HONORABLE ALETA A. TRAUGER
13 DATE: SEPTEMBER 2, 2010
14 TIME: 2:00 P.M.
15

16 APPEARANCES:

17 FOR THE GOVERNMENT: BRENT HANNAFAN
18 U.S. Attorney's Office
Nashville, Tennessee

19 FOR THE DEFENDANT: PATRICK FROGGE
20 Nashville, Tennessee

21 REPORTED BY: BEVERLY E. "BECKY" COLE, RPR
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1 THE COURT: Good afternoon. We're here on United
2 States vs. Renso Noriega. We have Brent Hannafan for the
3 government and Patrick Frogge for the defendant. The
4 defendant is in the courtroom.

5 We're here on a petition to enter a plea of guilty,
6 correct --

7 MR. FROGGE: Yes, Your Honor.

8 THE COURT: -- without a plea agreement.

9 MR. FROGGE: That's correct.

10 THE COURT: Okay. Would you bring your client
11 around, please?

12 MR. FROGGE: And, Your Honor, you may recall, we
13 did this once before.

14 THE COURT: I do recall. Were you his counsel at
15 that point?

16 MR. FROGGE: I was, and I trust the Court has the
17 petition from that.

18 THE COURT: I have the petition.

19 MR. FROGGE: Okay.

20 THE COURT: I do. Okay. Mr. Noriega, would you
21 raise your hand to be sworn, please.

22 (WITNESS WAS SWORN.)

23 THE CLERK: Would you state your name for the
24 record, please?

25 MR. NORIEGA: My name is Renso Noriega.

1 THE COURT: Mr. Noriega, how old are you?

2 MR. NORIEGA: I am 28.

3 THE COURT: How far did you go in school?

4 MR. NORIEGA: I finished high school and went to
5 some college.

6 THE COURT: Okay. Where was that?

7 MR. NORIEGA: I went to -- part, about a year to
8 year and half to MTSU, and then I had to move to Nashville
9 Tech, economically.

10 THE COURT: Okay. All right. Everything you say
11 in court today is under oath and could be used against you
12 in a prosecution for committing perjury or making a false
13 statement.

14 Do you understand that?

15 MR. NORIEGA: Correct, yes, ma'am.

16 THE COURT: Mr. Noriega, you are charge in a
17 third superseding indictment returned by the grand jury in
18 this district on March 31st of this year with the following
19 offense.

20 That between about October of 2008 through August 14
21 of 2009 in the Middle District of Tennessee, you and several
22 other individuals conspired to unlawfully, knowingly and
23 intentionally possess with intent to distribute and to
24 distribute five kilograms or more of a mixture and substance
25 containing a detectable amount of cocaine, a Scheduled II

1 controlled substance in violation of federal law.

2 Do you feel you understand this charge against you?

3 MR. NORIEGA: Yes, Your Honor.

4 THE COURT: Have you told Mr. Frogge everything
5 you know about the facts that support this charge?

6 MR. NORIEGA: Yes, Your Honor.

7 THE COURT: Has he told you what the government
8 would have to prove for you to be found guilty of this
9 charge.

10 MR. NORIEGA: Yes, Your Honor.

11 THE COURT: Has he discussed with you any
12 possible defenses you might have?

13 MR. NORIEGA: Yes, Your Honor.

14 THE COURT: Has he done all the investigation you
15 have asked him to do?

16 MR. NORIEGA: Yes.

17 THE COURT: Are you satisfied with his
18 representation of you so far?

19 MR. NORIEGA: Yes, Your Honor.

20 THE COURT: We have a minimum mandatory ten
21 years. Is that right, Mr. Hannafan?

22 MR. HANNAFAN: Yes, Your Honor.

23 THE COURT: All right. The possible penalty here
24 is a minimum of ten years and on up to life, a supervised
25 release term of at least five years, a fine of up to \$4

1 million, and a special assessment of \$100.

2 I want to tell you a little bit more about those
3 penalties.

4 We do not have any parole in the federal system. We
5 have a system of good time credits that you might or might
6 not earn up to 54 days per year.

7 However many days you earn would be credited against
8 your jail time at the end of each year and would shorten
9 your jail time by that much.

10 Any period of prison time is followed by a period of
11 supervised release. You would be reporting to a probation
12 officer and having to comply with certain conditions.

13 If you violated any of those conditions, your
14 supervised release could be revoked and you could be made to
15 serve additional time in prison.

16 This offense carries with it a substantial fine. I
17 must levy a fine against you unless I find you are
18 financially unable to pay a fine. The \$100 special
19 assessment must be paid no matter what your ability is to
20 pay it.

21 This is a felony you are offering to plead guilty to.
22 Conviction of a felony deprives you of the right to vote,
23 right to possess a firearm, and this conviction may be
24 counted as one of the necessary prior convictions in a
25 prosecution for being a habitual criminal.

1 Do you understand all that?

2 MR. NORIEGA: Yes, Your Honor.

3 THE COURT: Are you presently on probation or
4 parole from any other offense?

5 MR. NORIEGA: No, just this.

6 THE COURT: Just this one?

7 MR. NORIEGA: Uh-huh.

8 THE COURT: I want to explain to you the
9 important constitutional rights that you're giving up by
10 pleading guilty.

11 You have the right to go to trial with the assistance
12 of your lawyer who would confront and cross-examine the
13 witnesses on your behalf.

14 You could not be made to take the stand, testify,
15 incriminate yourself, call a witness or put on any kind of a
16 case at all.

17 It would be the government's sole burden to prove each
18 and every element of this offense beyond a reasonable doubt
19 to the satisfaction of a jury of 12 people. Their verdict
20 would have to be unanimous.

21 Do you understand that by pleading guilty you are
22 giving up all of those important constitutional rights?

23 MR. NORIEGA: Yes, Your Honor.

24 THE COURT: And do you understand there will be
25 no further trial of any sort, there will just be a

1 sentencing hearing in front of me?

2 MR. NORIEGA: Yes, Your Honor.

3 THE COURT: You are proposing to plead guilty
4 without a plea agreement with the government. Have you read
5 the petition to enter a plea of guilty?

6 MR. NORIEGA: Yes, Your Honor.

7 THE COURT: Do you feel you understand it?

8 MR. NORIEGA: Yes, Your Honor.

9 THE COURT: Has anybody promised you or suggested
10 to you what sentence I will give you in order to get you to
11 plead guilty?

12 MR. NORIEGA: No.

13 THE COURT: No?

14 MR. NORIEGA: (Moves head from side to side.)

15 THE COURT: Has anyone put any kind of pressure
16 on you, psychological or physical, to get you to plead
17 guilty?

18 MR. NORIEGA: No, Your Honor.

19 THE COURT: Have you had any alcohol in the last
20 12 hours?

21 MR. NORIEGA: No. No, Your Honor.

22 THE COURT: Have you had any narcotics,
23 hallucinogens or medicines containing narcotics in the last
24 12 hours?

25 MR. NORIEGA: No, Your Honor.

1 THE COURT: Are you on any kind of medication
2 today?

3 MR. NORIEGA: No.

4 THE COURT: Is your mind clear and you feel like
5 you know what you're doing?

6 MR. NORIEGA: Yes.

7 THE COURT: All right. I'm going to ask all
8 parties to execute the petition at this time and pass it
9 forward.

10 (Pause.)

11 THE COURT: All right. If you will step back,
12 Mr. Hannafan, I'll hear the facts.

13 MR. HANNAFAN: Yes, Your Honor.

14 THE COURT: Mr. Frogge, do you have any objection
15 to Mr. Hannafan giving the facts in this case?

16 MR. FROGGE: I don't, Your Honor, but I will
17 point out for all concerned that this is where we sort of
18 got hung up last time.

19 And Mr. Noriega, we have gone through this, and I
20 spoke with Mr. Hannafan, I think there are some facts that
21 Mr. Noriega disagrees with that Mr. Hannafan is about to
22 read, but he is pleading guilty to the count in the
23 indictment.

24 So I'll say that for my client's benefit and for Mr.
25 Hannafan's benefit.

1 THE COURT: All right.

2 (WITNESS WAS SWORN.)

3 THE COURT: Go ahead.

4 MR. HANNAFAN: Thank you, Your Honor. Beginning
5 not later than in or about October 2008, the exact date
6 being unknown through on or about August 14, 2009, in the
7 Middle District of Tennessee and elsewhere, the defendant
8 did combine, conspire, confederate and agree with others to
9 unlawfully knowingly intentionally possess with intent to
10 distribute and to distribute five kilograms or more of a
11 mixture and substance containing a detectable amount of
12 cocaine, a Schedule II controlled substance, in violation of
13 Title 21 United States Code Section 841(a)(1) all in
14 violation of Title 21 United States Code Section 846.

15 Prior to October of 2008 calls over a telephone used
16 by Co-defendant Martin Martinez, also known as Juve, were
17 intercepted by the drug enforcement administration pursuant
18 to a Title III court authorized wiretap out of the Northern
19 District of Georgia.

20 Juve was intercepted over that telephone discussing
21 the procurement and distribution of cocaine with
22 Co-defendant Mauricio Orozco Rios, also known as Guicho.

23 Based upon those interceptions, the DEA obtained a
24 Title III court authorized wiretap over a telephone Guicho
25 was using in the Middle District of Tennessee in October

1 2008.

2 Between October 2008 and August 14 of 2009, the DEA in
3 Nashville obtained a total of five additional Title III
4 court authorized wiretaps over the telephones of Guicho and
5 two other co-conspirators who are co-defendants in this
6 case, Francisco Jorge Sepulveda, also known as George; and
7 Armando Jaimes-Salazar, also known as Roberto
8 Jaimes-Salazar, also known as Sueno.

9 Several co-defendants with whom the defendant
10 conspired to distribute cocaine were intercepted having
11 conversations over those wiretaps.

12 During those conversations, the co-defendants
13 discussed the possession and distribution of kilograms of
14 cocaine in the Middle District of Tennessee and elsewhere.

15 The defendant was intercepted on wiretaps over
16 Guicho's phones. The content of those intercepted calls
17 indicated that the defendant worked as a courier for Guicho
18 to transport cocaine and money from the sale of cocaine in
19 the Middle District of Tennessee.

20 On June 24, 2009, Nashville DEA agents followed the
21 defendant and Juve to Atlanta where Atlanta DEA agents
22 observed them drop off the Toyota to several unknown
23 Hispanic males in a mall parking lot.

24 Those men then took the vehicle to what was believed
25 to be a stash house.

1 The defendant and Juve later met up with Hispanic men
2 and drove the Toyota back to Nashville.

3 Surveillance agents then observed the defendant part
4 that Toyota in Guicho's garage.

5 On or about August 14, 2009, Co-defendant Marcos
6 Arriaza Rios traveled to Atlanta and met with Juve.

7 The two of them then traveled to Nashville from
8 Atlanta in the same Toyota on which the DEA had previously
9 performed surveillance during the course of its
10 investigation.

11 On the morning of August 14, 2009, Marcos and Juve
12 arrived in that Toyota at the residence of Co-defendants
13 George Sepulveda and Hugo Sepulveda. That residence is
14 located in the Middle District of Tennessee.

15 Juve signed a Spanish written consent form provided to
16 him by the DEA and gave his consent to the DEA to search
17 that Toyota.

18 Additionally, a drug detection canine indicated the
19 presence of controlled substance in the vehicle.

20 Upon searching the vehicle, the DEA located nine
21 kilograms of cocaine in a hidden compartment underneath the
22 front seats of that Toyota.

23 THE COURT: Okay. Any questions for Mr.
24 Hannafan?

25 MR. FROGGE: No.

1 THE COURT: All right. Thank you, Mr. Hannafan.

2 MR. HANNAFAN: Thank you, Your Honor.

3 THE COURT: Would you bring your client around
4 again, please?

5 Mr. Noriega, you heard Mr. Hannafan give the facts
6 that support this charge.

7 Without asking you to admit all the facts that he gave
8 me, let me tell you for you to be found guilty of this
9 charge, the government has to prove these elements beyond a
10 reasonable doubt.

11 That you conspired or agreed with others to
12 unlawfully, knowingly and intentionally possess with the
13 intent to distribute or to distribute five kilograms or more
14 of a mixture or substance containing a detectable amount of
15 cocaine.

16 Do you think the government could prove those elements
17 of this offense if you went to trial?

18 MR. NORIEGA: Yes, Your Honor.

19 THE COURT: So you are pleading guilty because
20 you are, in fact, guilty?

21 MR. NORIEGA: Yes, Your Honor.

22 THE COURT: The Court finds there's a factual
23 basis for the plea in this case.

24 The Court has observed the appearance of Mr. Noriega
25 and his responsiveness to the questions asked. Based upon

1 that observation and the answers to the questions, the Court
2 is satisfied that Mr. Noriega is in full possession of his
3 faculties and competent to plead guilty.

4 He's not under the apparent influence of narcotics,
5 hallucinogens or alcohol.

6 He understands the nature of the charge to which his
7 plea is offered and the maximum possible penalty and minimum
8 mandatory penalty provided by law.

9 He's waiving his constitutional rights to trial and
10 the constitutional rights accorded all persons accused of a
11 crime.

12 He has offered to plead guilty voluntarily. I'll
13 reserve acceptance of the plea until I see the presentence
14 report.

15 Can we set the sentencing for Monday, November 22nd?
16 That's the Monday before Thanksgiving.

17 MR. HANNAFAN: That's fine with me, Your Honor.

18 MR. FROGGE: Yes, Your Honor.

19 THE COURT: All right. Let's set it at 1:30.

20 Are we anticipating a lot of testimony at this hearing in
21 terms of the amount of cocaine he's going to be responsible
22 for or anything of that nature?

23 MR. FROGGE: Your Honor, I think there is a
24 co-defendant that's set for trial in October, and I think
25 actually -- the government probably anticipates actually

1 will be tried in October, and I think we'll know a lot more
2 about that then.

3 THE COURT: Okay. Okay.

4 MR. FROGGE: But I do anticipate -- as you can
5 see, Mr. Noriega's family always comes to court, and I
6 anticipate a lot of them would like to speak at a sentencing
7 hearing.

8 THE COURT: Okay. Well, why don't we set this
9 then at 2:30? Okay.

10 MR. FROGGE: 2:30 on the 22nd?

11 THE COURT: 2:30 on Monday the 22nd of November.

12 MR. FROGGE: Thank you, Your Honor.

13 THE COURT: How many defendants are you
14 anticipating at this point? I have three for trial.

15 MR. HANNAFAN: Two, Your Honor.

16 THE COURT: Two. Who's -- you want to say out
17 loud who the third one is that's not going to trial or not?
18 I maybe should have -- well, it's this defendant. Yeah.

19 MR. HANNAFAN: Okay.

20 THE COURT: I have Mr. Noriega down for trial.

21 MR. HANNAFAN: Okay.

22 THE COURT: So I'll take him off.

23 MR. HANNAFAN: It's Mr. Ariano and Mr. Mauricio
24 Orozco-Rios, the lead defendant. Those are the only two I
25 anticipate going to trial.

1 THE COURT: Okay. Very good. Now, Mr. Noriega
2 is on bond?

3 MR. HANNAFAN: Yes.

4 MR. FROGGE: Yes.

5 THE COURT: Is there any objection to leaving him
6 on bond?

7 MR. HANNAFAN: No.

8 THE COURT: All right. Mr. Noriega, it's very
9 important -- apparently you have complied with the
10 conditions of your release. It's very important you
11 continue to do so.

12 MR. NORIEGA: Yes.

13 THE COURT: Okay?

14 MR. NORIEGA: Okay.

15 THE COURT: Anything else on this case?

16 MR. HANNAFAN: No, Your Honor.

17 THE COURT: Very good. We're in recess.

18 MR. HANNAFAN: Thank you, Your Honor.

19 MR. FROGGE: Thank you, Your Honor.

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REPORTER'S CERTIFICATE

I, BEVERLY E. "BECKY" COLE, Official Court
Reporter for the United States District Court for the Middle
District of Tennessee, with offices at Nashville, do hereby
certify:

That I reported on the stenotype shorthand machine
the proceedings held in open court on September 2, 2010 in
the matter of UNITED STATES OF AMERICA vs. RENSO NORIEGA,
Case No. 3:09-00186;

That a transcript of proceedings in connection
with the hearing was reduced to typewritten form by me;

That the foregoing transcript is a true and
accurate record of the proceedings to the best of my skills
and abilities;

This the 30th day of October, 2012.

/s/
BEVERLY E. COLE, RPR